

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-380

June 11, 2004

BANGOR HYDRO-ELECTRIC COMPANY,
Request for Approval of a Special Rate
Contract with Lincoln Paper and Tissue, LLC

PROTECTIVE ORDER

By Motion dated June 10, 2004, Lincoln Paper and Tissue, LLC ("Lincoln") requested an Order to protect confidential financial and business information pertaining to Lincoln contained in a retail energy sale confirmation agreement between Lincoln and Sprague Energy Corp ("Sprague") ("Confirmation Agreement"), backed by the Guaranty Agreement between Sprague and Bangor Hydro Electric Company ("BHE"), both to be considered simultaneously with this Order.

Public disclosure of this information would adversely affect Lincoln because it would make private and confidential business information available to the public and actual and potential competitors.

The Examiner finds that the information for which protection is sought is of a nature that would harm Lincoln if revealed and that, therefore, the information is properly subject to protection.

Accordingly, it is

ORDERED

1. That the Confirmation Agreement between Lincoln and Sprague and any calculations conducted thereunder shall constitute confidential information and shall be considered "Designated Confidential Information" for purposes of this Order.
2. That all Designated Confidential Information shall, unless removed from the coverage of the Order as provided in paragraph 3 below, be and remain confidential. Such Designated Confidential Information shall neither be used nor disclosed for any purpose other than the purposes of preparation and conduct of these proceedings, and then solely in accordance with this Order. No person to whom access to Designated Confidential Information is accorded pursuant to Paragraph 3 of this Order shall disclose or reveal, directly or indirectly, the content of the Designated Confidential Information to others except as provided in Paragraph 3.

3. That, unless the Order is modified, access to Designated Confidential Information shall be limited to the Commission's members, counsel and employees, members of the Office of the Public Advocate; counsel and employees of Bangor Hydro-Electric; counsel and representatives for Lincoln in this proceeding; and to a stenographer or reporter recording any hearing in connection with the proceedings.

4. That no copies of Designated Confidential Information shall be circulated to persons other than those persons who are authorized under Paragraph 3 of this Order to obtain Designated Confidential Information. Documents offered in evidence may be copied as necessary for that purpose. Persons authorized under Paragraph 3 also may take such notes with regard to the Designated Confidential Information as may be necessary solely for the purposes of these proceedings. Such notes shall also be treated as Designated Confidential Information and shall not be used for any purposes other than the preparation and conduct of these proceedings.

5. That the restrictions upon, and obligations accruing to, persons who become subject to this Order shall not apply to any Designated Confidential Information, if the Commission rules, after reasonable notice and hearing, that such Designated Confidential Information was publicly known at the time it was furnished or has since become publicly known through no fault of the receiving party.

6. That where reference to Designated Confidential Information is required in pleadings, briefs, other legal documents or argument such references shall be by citation of title or exhibit number only or by some other non-confidential description to the extent possible. In such circumstances, counsel shall make every reasonable effort to preserve the confidentiality of material in the sealed record. If counsel shall include Designated Confidential Information in pleadings, briefs, other legal documents or argument, that portion of such documents or that portion of the transcript of such argument containing Designated Confidential Information shall be maintained under seal.

7. This Order does not preclude any party from (a) objecting under the Maine Rules of Evidence to the admissibility of any Designated Confidential Information (b) objecting, on any substantive or procedural ground, to any subsequent data request or other request for information, or (c) using Designated Confidential Information in any arbitration or subsequent court proceeding arising from a dispute under the terms of the Designated Confidential Information.

8. That a Party providing Designated Confidential Information may provide to each person having access to Designated Confidential Information a copy of this Order and require each person to agree in writing to the terms hereof prior to obtaining access to the Designated Confidential Information.

9. That any Designated Confidential Information made part of the record in any proceeding before the Commission, including portions of the transcript of any hearing containing the content of the Designated Confidential Information, shall remain in the possession of the Commission, under seal, and subject to the protective requirements of this Order, unless the Commission or its authorized presiding officer shall otherwise order.

10. That the Commission may draw upon all Designated Confidential Information in the record in the deliberation of any decision or order that it may issue, but the Commission will avoid public disclosure or the reproduction in its decision of any Designated Confidential Information.

11. That should any appeal of or other challenge to the Commission's decision in this proceeding be taken, any portions of the record that have been sealed in accordance with Paragraph 6 above shall be forwarded to the courts of this State in accordance with applicable law and procedures, but under seal and so designated in writing for the information of the court.

12. That this Order may be modified on motion of any party or on the Commission's own motion upon reasonable prior notice to the parties and an opportunity for hearing.

Dated: June 11, 2004

James A. Buckley
Hearing Examiner